

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SOLAE, LLC,)	
a Delaware limited liability company,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 07-140-JJF
)	
HERSHEY CANADA INC.,)	
an Ontario, Canada corporation,)	
)	
Defendant.)	
_____)	

DECLARATION OF PIERRETTE NUGENT

1. My name is Pierrette Nugent. I am the Director of Quality and Regulatory Compliance for Hershey Canada Inc. ("Hershey Canada") and I work at Hershey Canada's headquarters in Mississauga, Ontario.
2. I am responsible for ensuring that any products made or brought into Canada by Hershey Canada comply with the Food and Drugs Act, a Canadian federal statute, and its corresponding regulations, which are enforced by the Canadian Food Inspection Agency ("CFIA"). I serve as Hershey Canada's primary contact with the CFIA, which is based in Ottawa, Ontario.
3. The Salmonella incident at the Smiths Falls, Ontario plant was brought to my attention immediately after a positive Salmonella result was found on November 3, 2006 during a routine microbiological lab analysis of chocolate paste from Robot number 2 made October 28, 2006 on the "Symphony" chocolate paste line.
4. A positive test for Salmonella is a highly unusual and serious issue for Hershey Canada both from a food safety perspective and a legal perspective: Section B.04.012 of the Canadian Food and Drug Regulations, C.R.C. c.870, specifically prohibits the sale of chocolate products that contain Salmonella.
5. Chocolate production on the Symphony line in Smiths Falls was shut down on November 3 as we ran down the milk supply to the system and production was placed on hold; operations at the rest of the Smiths Falls plant gradually ceased as investigations into the source and scope of the Salmonella incident continued. By November 9, 2006, the entire plant had been shut down and all Smiths Falls employees had been sent home, with the exception of some employees who would be required to empty and clean the chocolate system. At this point we had determined through comprehensive plant-wide testing that Solae's soy lecithin was the source of the Salmonella.

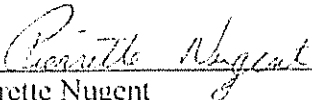
6. Late on the evening of November 9, 2006, I left a message with the local CFIA inspector responsible for the Mississauga area, Somo Arjun, and spoke directly with him on the morning of November 10 to notify him of the situation and inform him that we would be initiating a recall of all chocolate products that had been impacted by the Salmonella contamination. Arjun then immediately contacted the Office of Food Safety and Recall ("OFSR"), based in Ottawa Ontario, which is a division of Health Canada (Canada's equivalent to the U.S. Department of Health).
7. At this time CFIA also sent to Smiths Falls two inspectors, Gord Spencer (based out of Belleville, Ontario) and a CFIA trainee, to investigate and gather information about the incident. For the next 36 hours, I was in continuous contact with both Spencer and various representatives from OFSR, including DD Sharma and Garfield Balsom, to evaluate and negotiate the level of recall that would be required. After these deliberations, we reached a consensus that a Class 2 recall was most appropriate based on the level of risk to consumers.
8. I also worked immediately with several members of the OFSR communications group in order to draft a press release announcing the recall (which was released on November 12, 2006) and with Hershey Canada's Vice President of Sales, Mike Aucoin, to draft letters to Hershey Canada customers informing them of the recall efforts.
9. I worked with the Smiths Falls management team to devise a protocol for cleaning the entire chocolate system. On November 17, 2006, the Smiths Falls QA Manager submitted a draft cleaning procedure to CFIA for review. Pursuant to the comments from CFIA that we incorporated into this protocol, these cleaning efforts continued through late November 2006. Production of finished goods at the Smiths Falls facility did not resume until the week of December 4, 2006.
10. Two CFIA inspectors, Mike O'Neil and Paul Kirkby, both based out of Ottawa, Ontario, itemized everything at the Smiths Falls plant and placed "detention notices" on all affected materials. Local CFIA inspectors also placed detention notices on the two warehouses where finished product had already been shipped — Hershey Canada's Exel warehouse in Mississauga, Ontario, and its Spectrum warehouse at Calgary in the Canadian province of Alberta.
11. During this time I was also in constant communication with members of Hershey Canada's sales and marketing teams, including Mike Aucoin, Supply Chain Director Mario Carbone, and Vice President of Marketing Lynn Baumgartner, all based at headquarters in Mississauga, who were working to recall chocolate product from Hershey Canada customers throughout Canada.
12. Over 2 million units of product were recalled from all stages of the distribution chain (from Hershey Canada warehouses in Mississauga and Calgary to

wholesalers and retailers throughout Canada's 10 provinces). None of these units had been distributed to Delaware or had any impact on the citizens of Delaware

13. The CFIA, and in particular Arjun, had responsibility to ensure that the recall was effective under CFIA standards.
14. From November 9, 2006 through mid-December 2006, I was in daily contact with Arjun to update him on the status of both our cleaning and recall efforts. On a daily basis I sent Arjun a spreadsheet reflecting the progress of the recall for every Hershey Canada customer account and every item number.
15. On December 7, 2006, Arjun notified me during a phone conversation that the recall had been effective and was complete from the CFIA's perspective.
16. At present, Hershey Canada is holding 4500 pallets—118 truckloads—of quarantined and recalled materials at a warehouse near Toronto, Ontario. Pursuant to Solae's request, Hershey Canada has not yet begun destruction of these materials.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 18, 2007



Pierrette Nugent
Director of Quality and Regulatory Compliance
Hershey Canada Inc.

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2007, I electronically filed the foregoing with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following and which has also been served as noted:

BY HAND

P. Clarkson Collins, Jr.
Katherine J. Neikirk
Morris James, LLP
500 Delaware Avenue, Suite 1500
Wilmington, Delaware 19899

I further certify that on April 19, 2007, the foregoing document was sent to the following non-registered participants in the manner indicated:

VIA FEDERAL EXPRESS

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